Office of the Public Sector Integrity Commissioner of Canada

Commissariat à l'intégrité du secteur public du Canada

Findings of the Public Sector Integrity Commissioner in the Matter of an Investigation into a Disclosure of Wrongdoing

Correctional Service of Canada

Case Report
March 2018

The Report is available on our website at www.psic-ispc.gc.ca.

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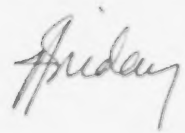
The Honourable George J. Furey, Q.C.
Speaker of the Senate
The Senate
Ottawa, Ontario K1A 0A4

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner of Canada's Case Report of Findings in the Matter of an Investigation into a Disclosure of Wrongdoing at the Correctional Service of Canada, which is to be laid before the Senate in accordance with the provisions of subsection 38(3.3) of the *Public Servants Disclosure Protection Act*.

The report contains the findings of wrongdoing, the recommendations made to the chief executive, my opinion as to whether the chief executive's response to the recommendations is satisfactory and the chief executive's written comments.

Yours sincerely,



Joe Friday
Public Sector Integrity Commissioner
Ottawa, March 2018

The Honourable Geoff Regan, P.C., M.P.
Speaker of the House of Commons
House of Commons
Ottawa, Ontario K1A 0A6

Dear Mr. Speaker:

I have the honour of presenting you with the Office of the Public Sector Integrity Commissioner of Canada's Case Report of Findings in the Matter of an Investigation into a Disclosure of Wrongdoing at the Correctional Service of Canada, which is to be laid before the House of Commons in accordance with the provisions of subsection 38(3.3) of the *Public Servants Disclosure Protection Act*.

The report contains the findings of wrongdoing, the recommendations made to the chief executive, my opinion as to whether the chief executive's response to the recommendations is satisfactory and the chief executive's written comments.

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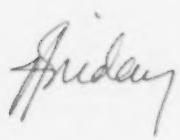

Joe Friday
Public Sector Integrity Commissioner
Ottawa, March 2018

Table of Contents

Foreword 2

Mandate 3

The Disclosure 4

Results of the Investigation 4

Overview of the Investigation 4

Summary of Findings 5

- Serious Breach of a Code of Conduct 5
- Gross Mismanagement 6
- The Director's Abusive Behaviour 6
- The Assistant Commissioner's Inaction 8

Conclusion 10

Commissioner's Recommendations and the Correctional Service of Canada's Response 12

Foreword

This Case Report of founded wrongdoing, which has been tabled in Parliament as required by the *Public Servants Disclosure Protection Act,* S.C., 2005, c. 46 (the Act).

This Case Report presents the findings of two investigations: the first concerns the conduct of a Director who demonstrated abusive behaviour towards several of her employees in the workplace and the second investigation deals with management's response to the internal allegations that had been made against this Director. Both the Director and an Assistant Commissioner committed a serious breach of a code of conduct and gross mismanagement.

The Act was created to provide a confidential whistleblowing mechanism in the federal public sector giving public servants and members of the public the right to report what they believe to be wrongdoing. I initiated the first investigation into the Director's behaviour following one such disclosure of wrongdoing made to my Office. However, when it became apparent that there were questions about how senior management dealt with internal allegations concerning this Director, I initiated a second investigation pursuant to subsection 33(1) of the Act, which gives me the power to commence a separate investigation when information obtained gives me reason to believe that another wrongdoing may have been committed.

While the Director engaged in highly unacceptable behaviour towards her employees, I feel it is necessary to underscore that, in matters such as these, senior management has specific responsibilities and a higher duty to protect and respond to the needs of employees who have been harmed or otherwise adversely affected by abusive behaviour in the workplace.

As stated in previous case reports, Canadians expect all employees of the public service, especially senior executives, to be respectful and professional and that their actions reflect the values of the public service. Given the government's current priority on mental health in the workplace, this report can serve to highlight the importance of ensuring a healthy and respectful workplace. All employees, regardless of their level and function in any organization, deserve and must be treated with respect.

Joe Friday, Public Sector Integrity Commissioner

Mandate

The Office of the Public Sector Integrity Commissioner of Canada contributes to strengthening accountability and increases oversight of government operations by providing:

- public servants and members of the public with an independent and confidential process for receiving and investigating disclosures of wrongdoing in, or relating to, the federal public sector, and by reporting founded cases to Parliament and making recommendations to chief executives on corrective measures;
- public servants and former public servants with a mechanism for handling complaints of reprisal for the purpose of coming to a resolution, including referring cases to the Public Servants Disclosure Protection Tribunal.

The Office is an independent organization that was created in 2007 to implement the *Public Servants Disclosure Protection Act* (the Act).

Section 8 of the Act defines wrongdoing as:

(a) a contravention of any Act of Parliament or of the legislature of a province, or of any regulations made under any such Act, other than a contravention of section 19 of this Act;
(b) a misuse of public funds or a public asset;
(c) a gross mismanagement in the public sector;
(d) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of a public servant;
(e) a serious breach of a code of conduct established under section 5 or 6;
(f) knowingly directing or counselling a person to commit a wrongdoing set out in any of paragraphs 8(*a*) to 8(*e*).

The purpose of investigations into disclosures is, according to the Act, to bring the existence of wrongdoing to the attention of the organization's chief executive and to make recommendations for corrective action.

> *The Act was created to provide a confidential whistleblowing mechanism in the federal public sector. The disclosure regime established under this Act is meant not only to identify wrongdoing when it occurs, and to take corrective action to ensure the wrongdoing stops, but also to act as a general deterrent throughout the federal public sector. This is why legislation requires that founded cases of wrongdoing be reported to Parliament. This is a powerful tool of transparency and public accountability.*

The Disclosure

My Office received a disclosure of wrongdoing, alleging that Ms. Brigitte de Blois (the Director), a Director at the Correctional Service of Canada (CSC), committed wrongdoing as defined under paragraphs 8(*c*) and 8(*e*) of the *Public Servants Disclosure Protection Act* (the Act), specifically, gross mismanagement and a serious breach of a code of conduct. After a careful analysis of the information received, an investigation into these matters was launched in May 2016.

The investigation concerned events that occurred at the CSC between 2010, when Ms. de Blois became Director of Offenders Redress Division (ORD), and December 2015, when she was transferred to the Evaluation Division.

As stated in the foreword, I expanded this investigation in February 2017 to examine the conduct of CSC senior officials, including that of Assistant Commissioner Larry Motiuk (the Assistant Commissioner), to determine whether they had taken appropriate and required action to deal with internal allegations about the Director's behaviour.

Results of the Investigation

The investigation found that:

- the Director committed gross mismanagement and a serious breach of the CSC Code of Discipline and of the *Values and Ethics Code for the Public Sector* by:
    - screaming at employees;
    - making insulting and derogatory comments towards them;
    - displaying aggressive behaviour on a regular basis in the workplace.
- the Assistant Commissioner committed gross mismanagement and a serious breach of the CSC Code of Discipline and of the *Values and Ethics Code for the Public Sector* by failing to take appropriate measures to address the internal allegations of abusive behaviour made against the Director.

Overview of the Investigation

The investigation was led by Mr. Patrick Martel, an investigator with my Office, who heard from 29 witnesses, including the Director and the Assistant Commissioner. He also reviewed extensive documentary evidence.

As required under the Act, the CSC and its personnel fully cooperated in the investigation.

In keeping with our natural justice and procedural fairness obligations, my Office provided the Director, the Assistant Commissioner and the CSC with full and ample opportunity to respond to the allegations through interviews, as well as the provision of a preliminary investigation report (PIR) for their respective review and comments.

Although the Director disputed that her behaviour amounted to wrongdoing, she explained that she expected a lot from her employees in the context of a very busy work environment and she expressed regret for any actions that offended or hurt her staff.

For his part, the Assistant Commissioner denied having committed any form of wrongdoing, stating that he was not aware of any significant problems with the Director's behaviour and disputed the findings.

The CSC Commissioner, Mr. Don Head, offered no comments in relation to the allegations against the Director. However, on behalf of the CSC, he denied that the Assistant Commissioner committed any wrongdoing in relation to his handling of internal allegations against the Director. Commissioner Head stated that no formal complaints had been made to the CSC or to the Assistant Commissioner about the Director's behaviour. In his reply to the PIR, Commissioner Head also denied any wrongdoing on the part of the CSC itself.

In arriving at my findings, I have given due consideration to all information received throughout the course of the investigation, including the comments provided by the Director, the Assistant Commissioner and the CSC in response to the PIR.

Summary of Findings

Serious Breach of a Code of Conduct

In determining whether an action or omission comprises a "serious" breach of a code of conduct under paragraph 8(*e*) of the Act, the following defining elements are taken into consideration:

- the breach represents a significant departure from generally accepted practices within the federal public sector;
- the impact or potential impact of the breach on the organization's employees, clients and the public trust is significant;
- the alleged wrongdoer occupies a position that is of a high level of seniority or trust within the organization;
- there are serious errors which are not debatable among reasonable people;
- the breach of the applicable code(s) of conduct is systemic or endemic;

- there is a repetitive nature to the breaches of the applicable code(s) of conduct or they have occurred over a significant period of time;
- there is a significant degree of wilfulness or recklessness related to the breach of the applicable code(s) of conduct;
- the breach poses a serious threat to public confidence in the integrity of the public service, and does not only concern a personal matter such as individual harassment complaints or individual workplace grievances.

Gross Mismanagement

The factors that my Office considers in investigating an allegation of gross mismanagement under paragraph 8(*c*) of the Act include, but are not limited to:

- matters of significant importance;
- serious errors that are not debatable among reasonable people;
- more than minor wrongdoing or negligence;
- management action or inaction that creates a substantial risk of significant adverse impact upon the ability of an organization, office or unit to carry out its mandate;
- management action or inaction that poses a serious threat to public confidence in the integrity of the public service, and that does not only concern a personal matter, such as individual harassment complaints or individual workplace grievances;
- the deliberate nature of the wrongdoing;
- the systemic nature of the wrongdoing.

The Director's Abusive Behaviour

The evidence clearly shows that Ms. Brigitte de Blois (the Director) engaged in repetitive abusive behaviour towards her employees, characterized by frequent screaming, insulting and making denigrating comments, as well as displaying aggressive behaviour towards them. She did not treat employees with respect and did not help to create and maintain a safe and healthy workplace as required under the CSC Code of Discipline and the *Values and Ethics Code for the Public Sector*.

The information obtained during the investigation demonstrates that, over a long period of time, the Director's inappropriate behaviour had several negative consequences on the work environment and on those working for her. At the ORD, she had authority over approximately 50 employees. The witnesses' testimonies demonstrate that employees were working in an environment of fear that had ill effects on their wellness. The Director was entrusted with the obligation and responsibility to manage employees in a professional and respectful manner and she repeatedly failed to do so.

Screaming

Many witnesses reported that regular incidents of screaming at employees occurred in the context of daily staff meetings where employees felt particularly belittled and humiliated. These meetings were the focal point of interaction between her and her employees. Witnesses related that these were difficult meetings with one witness describing them as a *"punishment ritual"* [translation].

Witnesses informed us that the Director's abusive behaviour was not limited to these meetings. They described hearing her scream at employees and berating them in her office on an almost daily basis. Witnesses reported that, many times per week, the Director's screams could be heard all the way down the hall. One witness stated not wanting to be assigned a workspace in proximity to her office as he could not concentrate due to her yelling.

Insults and Derogatory Comments

Witnesses reported that the Director regularly insulted and made derogatory remarks to them and other employees in front of staff. The following are some examples of such incidents:

- referring to someone's work as a *"piece of (expletive removed)"*;
- putting down certain employees by referring to them as:
  "pathetic loser"; [translation]
  "disturbed"; [translation]
  "His work is just (expletive removed)!"; [translation]
  "The other moron"; [translation]
  "What kind of an idiot are you?";
  "I have difficulty believing you passed the bar exam when you cannot explain the law.";
  "I don't agree with your answer. What do you have to say to defend yourself?"
  [translation].

Displays of Aggressive Behaviour

Witnesses described a work environment marked by regular and very visible displays of anger by the Director, such as:

- aggressively pushing a file across a desk while telling an employee to "*come back when (he) is better disposed to discuss*";
- pushing chairs around, slamming doors and slamming her hands on a table;
- yelling at an employee, "*Now you will shut your mouth, we aren't allowed to laugh around here*"; [translation]
- on more than one occasion, returning reviewed written work to employees with annotations and marks so pronounced that there were tears through the paper.

It was also reported that she did not tolerate disagreement and viewed it as insubordination.

The Assistant Commissioner's Inaction

The findings of wrongdoing against Assistant Commissioner Larry Motiuk (the Assistant Commissioner) specifically relate to events that occurred during the fall of 2016 when further incidents of abusive behaviour by the Director were reported to him. These incidents, which occurred at her new place of work within the CSC (the Evaluation Division), were brought to his attention by an employee and the Director's manager, an Associate Assistant Commissioner (the Associate who reported directly to him).

Of critical importance to my findings is that when these incidents were reported to the Assistant Commissioner, he withheld from the Associate Assistant Commissioner specific information that he had about similar incidents involving the Director while she was at the ORD. He did not inform the Associate Assistant Commissioner of these past occurrences, thereby minimizing the importance of the alleged misbehaviour by the Director. This information would have been essential to allow the Associate Assistant Commissioner to properly determine how best to address the issues reported to him by his employee.

It is important to note that the Assistant Commissioner had oversight over both the Director's current place of work and her previous place of work.

The Assistant Commissioner stated that no one had ever informed him of any serious allegations against the Director. His evidence is that while he was aware of previous labour relations issues and perhaps personal conflicts within the ORD, he believed that the Director's previous supervisor had appropriately managed these issues.

While he denied having had knowledge of serious problems associated with the Director's behaviour, the investigation clearly shows that three employees had specifically informed him of her abusive behaviour. These three employees included two high-level managers, one of whom being her former Director General.

In addition, in September 2016, an employee within the Evaluation Division, where the Director had been transferred, met with the Assistant Commissioner to complain about her. The employee's evidence is that he met with the Assistant Commissioner for approximately 45 minutes, at which time he reported mistreatment at the hands of the Director.

He informed the Assistant Commissioner during the meeting that the Director had made the following specific inappropriate comments:

- *"You won't be telling me what to do, I have all the power and report directly to the Commissioner."* [translation]
- *"That little (name withheld), once he'll return from leave, I'll break him."* [translation]
- *"I want nothing to do with this employee who has all sorts of problems. She was sexually assaulted (by someone outside of the workplace)."* [translation]
- *"With the number of (details of the medical issue withheld) that this woman has had, I am not responsible for those, and I want to see someone in that seat who works."* [translation]

The employee further stated that the Assistant Commissioner appeared surprised by the allegations and he was left with the impression that the Assistant Commissioner was annoyed that such matters had been brought to his attention.

Two witnesses reported that the Assistant Commissioner had witnessed inappropriate behaviour as he walked by the Director's office while she was yelling and insulting an employee. One witness testified that he was sitting in his office with his door open while, across the hallway, the Director was yelling at an employee. The Assistant Commissioner walked by while this was happening. The other witness reported walking directly behind the Assistant Commissioner while the Director *"was right in the middle of one of her famous screaming matches."* The witness stated: *"There is no way Mr. Motiuk did not hear that."* The witness added: *"The only reason I can say this is because of that one time, I was right behind Mr. Motiuk, that is why I know there is no way he would have not heard that because I did."*

Both witnesses reported that the Assistant Commissioner ignored the incident, walked away and failed to take any action to inquire about the situation and stop the Director's behaviour.

While I have fully considered the Assistant Commissioner's position that he was not aware of the serious problems associated with the Director's behaviour, the evidence in its totality supports otherwise.

I find that the Assistant Commissioner had specific knowledge of the Director's abusive behaviour since at least the summer of 2015, and that he had personally witnessed her scream at an employee. When he was made aware of reoccurrences of abusive behaviour in September 2016, he failed to take appropriate and required measures to address the situation.

The CSC Code of Discipline specifically states that in their relationships with other staff members, CSC employees must promote mutual respect and contribute to a safe, healthy and secure work environment that is free of harassment and discrimination. Further, CSC employees commit an infraction of this Code when they are abusive, by word or action, to other employees, while on duty or under circumstances related to their duties.

This Code also makes it an infraction for a supervisor or someone in authority to condone or to fail to take action when it comes to their attention that an employee has committed an infraction of this Code.

The information brought to the Assistant Commissioner's attention described allegations of abusive conduct by the Director that would constitute an infraction under the Code of Discipline and, under these circumstances, the Assistant Commissioner had a specific duty to take action.

These provisions are entirely consistent with the "Respect for People" value of the *Values and Ethics Code for the Public Sector*. In particular, public servants must respect human dignity and the value of every person by helping to create and maintain safe and healthy workplaces that are free from harassment and discrimination, and by working together in a spirit of openness that encourages engagement, collaboration and respectful communication.

Conclusion

The kind of inappropriate behaviour that Ms. Brigitte de Blois (the Director) exhibited is clearly contrary to the values of the CSC and of the public service. Accordingly, I find that her repeated abuse of staff through her words and actions amounts to a serious breach of the CSC Code of Discipline and of the *Values and Ethics Code for the Public Sector* – a wrongdoing as defined under paragraph 8(*e*) of the Act.

In addition, the behaviour described by witnesses is indeed a matter of significant importance, particularly in today's public service. Ensuring a healthy workplace through mental health promotion and the prevention and correction of abuse and harassment are clear priorities for the Government of Canada. The Director's inappropriate interactions with her staff had a very significant negative impact on the wellness of employees and the proper functioning of the Division under her responsibility.

In light of the seriousness and deliberate nature of the Director's actions, I find that this is also a case of gross mismanagement in the public sector – a wrongdoing as defined under paragraph 8(*c*) of the Act.

For his part, Assistant Commissioner Larry Motiuk's (the Assistant Commissioner) failure to inform the Associate of past incidents amounted to a failure to fulfill his responsibility to address the Director's conduct. Considering that he occupies one of the highest positions within the CSC, and considering that he had received first-hand accounts of allegations of abusive behaviour by the Director, his inaction is indeed a matter of significant importance. The Assistant Commissioner was made aware of incidents involving the Director that were neither minor nor isolated. He knew or ought to have known that the allegations against her were serious and that her behaviour had the potential to have a very significant negative impact on the wellness of employees and the proper functioning of the Division under her responsibility.

The Assistant Commissioner had a specific duty under the CSC Code of Discipline and an overall responsibility under the *Values and Ethic Code for the Public Sector* to address the allegations about her behaviour. Accordingly, I find that his failures amount to a serious breach of those Codes– a wrongdoing as defined under paragraph 8(*e*) of the Act.

Allegations of abusive behaviour must be taken seriously, especially when made against a senior manager with supervisory authority over numerous employees. In light of the seriousness of the situation, I find that the Assistant Commissioner's actions also correspond to a case of gross mismanagement in the public sector – a wrongdoing as defined in paragraph 8(*c*) of the Act.

Commissioner's Recommendations and the Correctional Service of Canada's Response

In accordance with paragraph 22(*h*) of the Act, I have made the following recommendations to Ms. Anne Kelly, the CSC Interim Commissioner, concerning the measures to be taken to correct the wrongdoing in the matter related to this Case Report. I am satisfied with the Interim Commissioner's responses to my recommendations and the measures taken to date to address the wrongdoing identified in this Report. I will be requesting an update of all three recommendations in the next six months to ensure they are properly addressed.

My recommendations and the Departmental responses follow.

1. **Taking into account section 9 of the Act, which states that a "*public servant is subject to appropriate disciplinary action, including termination of employment, if he or she commits a wrongdoing*", I recommend that the CSC consider the need for disciplinary action against Ms. Brigitte de Blois (the Director) and Assistant Commissioner Larry Motiuk (the Assistant Commissioner).**
2. **I recommend that the CSC, in consultation with employees and the relevant bargaining agents, assess the need for a workplace wellness initiative of the affected Divisions to ensure a healthy workplace and to address the needs of those affected by the actions of the Director.**
3. **I also recommend that the CSC review the mechanisms in place related to creating a healthy workplace to ensure that all senior managers, including the Assistant Commissioner, understand their obligations under the CSC Code of Discipline and the *Values and Ethics Code for the Public Sector*.**

The Correctional Service of Canada endeavours to maintain a workplace that is free from harassment, intimidation, and bullying and welcomes the opportunity to use the report's recommendations to improve workplace well ness throughout the department. Working towards the goal of improving the organisation's climate, CSC has launched a National Respectful Workplace Campaign, which includes a number of initiatives to raise awareness, activities to promote wellness and avenues to disclose inappropriate behaviour. As Interim Commissioner, I am fully committed to ensure all employees have the healthy and respectful work environment they deserve.

Meetings with all Regional Management Committees have occurred to re-inforce [sic] *CSC's position on workplace wellness and my expectation with respect to the swift and effective management of harassment, intimidation and bullying. The issue of healthy and respectful workplaces remains a standing item in all my bilateral meetings with Regional Deputy Commissioners and Assistant Commissioners in National Headquarters. We are including robust*

language in each performance agreement for 2018-19 where every executive, supervisor and manager will be expected to meet commitments regarding the management of issues related to workplace wellness. Also, all EXCOM members signed a respectful workplace statement which [sic] *condemns intimidation, bullying and harassment in the workplace. Copies of the statement have been posted throughout the organization.*

To further strengthen our commitment to maintaining a healthy workplace, we have launched a video that promotes workplace wellbeing [sic] *and offers avenues to resolve issues. In this video, each member of EXCOM commits to leading and supporting initiatives to create and maintain a positive work environment at CSC, in our institutions, parole offices and administrative offices.*

CSC's National Advisory Committee on Ethics, which is chaired by myself and includes senior managers, representatives of UCCO-SACC-CSN, PIPSC and USJE and external Values & Ethics Consultants meets quarterly to discuss issues related to the wellbeing [sic] *of staff throughout the department and examines options to foster a healthy workplace.*

In addition to the initiatives listed above, CSC is revamping existing programs such as the Anti-Harassment Program and [sic] *continues to raise awareness to ensure that all managers and employees are made aware of their options and obligations when dealing with sensitive issues. A number of values and ethics workshops are delivered to staff and leaders to enhance skills in topics such as ethical decision-making and leading with a values-based approach.*

More specifically related to the recommendations of the report, the following actions have already taken place:

- *CSC has conducted a workplace wellness activity in one of the affected Divisions in April 2017 to ensure a healthy workplace;*
- *The other division's management team received a session on Myers Briggs Type Indicator (MBTI) in May 2017 to assist managers in maintaining and improving workplace health. The session was delivered to a new management team; and,*
- *Disciplinary hearings have already been convened for both the Director and the Assistant Commissioner and discipline has been issued as deemed necessary.*

To ensure full compliance and meet the recommendations of this report, I commit to the following final action:

- *I will assess the need for further workplace wellness activities for the affected divisions to ensure a healthy workplace.*

I trust these actions respond to the recommendations of the report and demonstrate CSC's commitment to creating and maintaining a healthy workplace.